

SERVICE DATE – LATE RELEASE JUNE 25, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-6 (Sub-No. 413X)

THE BURLINGTON NORTHERN AND SANTA FE RAILWAY  
COMPANY—ABANDONMENT EXEMPTION—IN WASHINGTON COUNTY, MN

Decided: June 25, 2004

The Burlington Northern and Santa Fe Railway Company (BNSF) filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 0.99-mile line of railroad between BNSF milepost 11.81 and milepost 12.80 in Stillwater, Washington County, MN. Notice of the exemption was served and published in the Federal Register on May 28, 2004 (69 FR 30747). The exemption is scheduled to become effective on June 29, 2004.

The Board's Section of Environmental Analysis (SEA) issued an environmental assessment (EA) in this proceeding on June 4, 2004. In the EA, SEA recommended that the following conditions be imposed on any decision granting abandonment authority. SEA states in the EA that the National Geodetic Survey (NGS) has identified one geodetic station marker that may be affected by the proposed abandonment. Therefore, SEA recommends that BNSF notify NGS at least 90 days prior to salvage activities to plan for the relocation of the marker.

SEA also states that the Minnesota Department of Natural Resources, Natural Heritage and Nongame Research Program (MDNR), reviewed the Minnesota Natural Heritage database to determine if any rare plant or animal species or other significant natural features are known to occur within an approximate 1-mile radius of the proposed abandonment. MDNR submitted a database printout and stated that there are 30 known occurrences of rare species or natural communities in the subject area. However, MDNR further stated that the proposed project would not affect any known occurrences of rare features, provided the project would not impact the water quality of the St. Croix River. Accordingly, SEA contacted the St. Croix National Scenic Riverway (SCNSR) to determine the effect of the proposed abandonment on the St. Croix River. The SCNSR requested additional information, including a map of the proposed abandonment and a copy of the MDNR letter. SEA sent the requested materials to the SCNSR and added the SCNSR to the service list. Accordingly, SEA recommends that BNSF consult with the National Park Service, SCNSR (Jill Medland at 715-483-3284) prior to commencement of any salvage activities on this project, to identify the appropriate mitigation measures that may be warranted. Also, if it is determined that the abandonment would impact the water quality of the St. Croix River, BNSF shall contact MDNR prior to commencement of any salvage activities on this project and report the results of these consultations to SEA.

The U.S. Department of Agriculture, Forest Service - Eastern Region (Forest Service), stated that there are no Forest Service-administered lands in the proposed project area. However, the Forest Service recommended that BNSF contact the U.S. Department of the Interior, National Park Service, regarding the possible impacts to the SCNSR. Accordingly, SEA recommends that BNSF consult with Nick Chevance at the National Park Service's Midwest Regional office prior to commencement of any salvage activities to determine the possible impacts to the SCNSR. Also, BNSF shall report the results of this consultation to SEA.

Finally, SEA states that the Minnesota Historical Society (the State Historic Preservation Office or SHPO) responded to BNSF's historical report, but had not completed its assessment of the proposed abandonment at the time the EA was prepared. The SHPO requested additional information from BNSF, including information on future plans. Therefore, pending completion of the SHPO's assessment, SEA recommends requiring BNSF to retain its interest in and take no steps to alter the historic integrity of all sites and structures on the right-of-way (ROW) that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA).

Comments to the EA were due by June 21, 2004. Comments were filed by The U.S. Environmental Protection Agency (EPA), Region 5, expressing concerns regarding the removal and salvage methods of the rails and roadbed material, the final disposition of crossties preserved with creosote, procedures for storing and fueling of removal equipment, and procedures for the prevention and/or control of spills from removal equipment to be utilized during salvage activities. Accordingly, SEA recommends a condition requiring that BNSF contact EPA, Region 5, prior to commencement of any salvage activities on this project.

EPA, Region 5 also indicates that the MDNR regional Environmental Assessment Ecologist, as well as the U.S. Fish and Wildlife Service (USFWS), should be consulted regarding potential impacts to endangered species or critical habitat. To address EPA's concerns regarding potential impacts to endangered species or critical habitat, SEA recommends a condition requiring that BNSF contact USFWS in addition to MDNR prior to commencement of any salvage activities on this project.

Accordingly, the conditions recommended by SEA will be imposed.

As conditioned, this decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.

2. Upon reconsideration, the notice served and published in the Federal Register on May 28, 2004, exempting the abandonment of the line described above, is subject to the conditions that BNSF shall: (1) notify NGS at least 90 days prior to salvage activities to plan for the relocation of the one geodetic station marker; (2)(a) consult with the National Park Service, SCNSR (Jill Medland at 715-483-3284), prior to commencement of any salvage activities on this project, to identify the appropriate mitigation measures that may be warranted, (b) if it is determined that the abandonment would impact the water quality of the St. Croix River, contact MDNR prior to commencement of any salvage activities on this project, and (c) report the results of these consultations to SEA; (3) consult with Nick Chevance at the National Park Service's Midwest Regional office prior to commencement of any salvage activities to determine the possible impacts to the SCNSR, and report the results of this consultation to SEA; (4) retain its interest in and take no steps to alter the historic integrity of all sites and structures on the ROW that are 50 years old or older until completion of the section 106 process of the NHPA; (5) prior to commencement of any salvage activities on this project, contact EPA, Region 5 (Kathleen Kowal, 312-353-5206), concerning removal and salvage methods, final disposition of crossties preserved with creosote, procedures for storing and fueling of construction equipment, procedures for the prevention and/or control of spills, and stormwater runoff mitigation practices to be utilized during abandonment activities; and (6) contact USFWS prior to commencement of any salvage activities on this project.

3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary